

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DISTRICT**

**MERCEDES LOTT and
MALCOLM TATE,**

PLAINTIFFS

V.

CIVIL ACTION NO. 3:17-CV-872

**VIVINT, INC. and
SMART HOME PROS, INC.**

DEFENDANTS

VIVINT, INC. AND SMART HOME PROS, INC.'S MOTION TO DISMISS

Defendants Vivint, Inc. and Smart Home Pros, Inc. (collectively, "Defendants") respectfully submit this motion to dismiss based upon the Utah forum selection clause in Plaintiffs' employment agreements or, alternatively, for failure to state a claim.

Defendants' Motion is supported by the following exhibit:

- Exhibit 1: Declaration of Conor Callaway.
 - Exhibit A to the Declaration of Conor Callaway: 2017 Sales Representative Employment Agreement for Mercedes Lott.
 - Exhibit B to the Declaration of Conor Callaway: 2017 Sales Representative Employment Agreement for Malcom Tate.

Defendants bring this Motion pursuant to the doctrine of *forum non conveniens* and Federal Rule of Civil Procedure 12(b)(6). Defendants' Motion is also supported by the reasons and authorities set forth in its supporting memorandum.

Dated: November 22, 2017

By /s/ Gordon U. Sanford III

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Smart Home Pros, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was electronically filed with the Clerk of the Court on November 22, 2017, which sent notification to all counsel of record.

/s/ Gordon U. Sanford III

Gordon U. Sanford III